



ANDREW M. CUOMO
Governor

Department of Health

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

January 25, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sanjeev Saxena, M.D.


Marc S. Nash, Esq.
Bureau of Professional Medical Conduct
Empire State Plaza
Corning Tower Building, Room 2512
Albany, New York 12237

RE: In the Matter of Sanjeev Saxena, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 19-019) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the Respondent or the Department may seek a review of a committee determination.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board.

Six copies of all papers must also be sent to the attention of Judge Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,



James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: cmg
Enclosure

**STATE OF NEW YORK: DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

-----X-----
IN THE MATTER : DETERMINATION
OF : AND
SANJEEV SAXENA, M.D. : ORDER
-----X-----

A hearing was held on December 19, 2018, at the offices of the New York State Department of Health (Department), 150 Broadway, Menands, New York. Pursuant to §230(10)(e) of the Public Health Law (PHL), **LYON M. GREENBERG, M.D.**, Chairperson, **PROSPERE REMY, M.D.**, and **GEORGIA MILLOR, PhD., R.N.**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter. **JEAN T. CARNEY, ADMINISTRATIVE LAW JUDGE (ALJ)**, served as the Administrative Officer.

The Department appeared by Associate Counsel Marc S. Nash. A Notice of Referral Proceeding and Statement of Charges dated September 27, 2018, were duly served pursuant to PHL §230(10)(d)(i) upon Sanjeev Saxena, M.D. (Respondent), who appeared by telephone with his attorney, Mark Lee, Esq. The Hearing Committee received and examined documents from the Department (Exhibits 1-5), from the Respondent (Exhibit A), and a stenographic reporter prepared a transcript of the proceeding. After consideration of the entire record, the Hearing Committee sustains the charge that the Respondent committed professional misconduct, in violation of Education Law §6530(9)(a)(ii), and that pursuant to PHL §230-a, the penalty of censure and reprimand, and one-year probation with random monitoring of Respondent's record keeping if he returns to practice in New York, is appropriate.

BACKGROUND

The Department brought the case pursuant to PHL §230(10)(p), which provides for a hearing when a licensee is charged solely with a violation of Education Law §6530(9). The Respondent is charged with professional misconduct pursuant to Education Law §6530(9)(d), by having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State. Under PHL §230(10), the Department had the burden of proving its case by a preponderance of the evidence.

FINDINGS OF FACT

The following findings and conclusions are the unanimous determinations of the Hearing Committee:

1. The Respondent was authorized to practice medicine in New York State on October 6, 2010, by the issuance of license number 258941. (Exhibit 3).
2. On or about November 17, 2017, the Respondent entered into a Joint Stipulation and Consent Order with the Alabama Board of Medical Examiners whereby the Respondent admitted to failing to maintain a medical record for a patient that met the minimum standards under Alabama law. The Respondent was placed on indefinite probation, not less than one year, with leave to apply for termination after completing an intensive course in Medical Documentation, attending a Cardiac

Rhythm Device Summit, submitting charts for review every three months, and receiving satisfactory review reports for those charts. (Exhibit 4).

3. The Respondent has fully complied with the terms of his probation and has applied for its termination. (Respondent's testimony).

VOTE OF THE HEARING COMMITTEE

The Respondent violated New York Education Law §6530(9)(a)(ii) by having been disciplined by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York State, constitute professional misconduct under the laws of New York State.

VOTE: Sustained (3-0)

CONCLUSIONS OF LAW

The Hearing Committee reviewed the Department's evidence showing that the Respondent was disiplined by the Alabama State Board of Medical Examiners, a duly authorized professional disciplinary agency. This disciplinary action was based on the Respondent's failure to maintain a complete and accurate patient record. New York also requires physicians to maintain accurate and complete patient medical records. If the Respondent had disregarded this obligation in New York, his conduct would have constituted professional misconduct as defined in Educ. Law §6530(32), which requires a licensee to maintain a record for each patient which accurately reflects the evaluation and treatment of that patient. The Hearing Committee determined that the Respondent violated Education Law §6530(9)(d), which states that professional misconduct includes having disciplinary action taken

by a duly authorized professional disciplinary agency of another state which, if committed in New York State, would constitute professional misconduct under the laws of New York State.

In considering the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties; the Hearing Committee noted that the Respondent expressed remorse, has fully cooperated with the terms of his probation imposed by the Alabama State Board of Medical Examiners, and expected to have his probation lifted at a hearing scheduled for December 20, 2018. Therefore, the Hearing Committee agrees with the Department's recommendation to censure and reprimand the Respondent. In addition, should the Respondent return to New York to practice medicine, he shall be placed on probation for one year, with his medical records randomly monitored while on probation.

ORDER

IT IS HEREBY ORDERED THAT:

1. The specification of professional misconduct, as set forth in the Statement of Charges is sustained;
2. The Respondent is censured and reprimanded; and
3. The Respondent must notify the Board of Professional Medical Conduct immediately if he returns to New York to practice medicine; and
4. If the Respondent returns to New York to practice medicine, he shall be placed on probation for a period of one year, with monitoring of his medical record keeping; and
5. This Order shall be effective upon service on the Respondent in accordance with the Requirements of PHL §230(10)(h).

[REDACTED]

Lyon M. Greenberg, M.D.
Chairperson

01-23-2019

Prospere Remy, M.D.
Georgia Millor, PhD., R.N.

To: Sanjeev Saxena, M.D.
[REDACTED]

Marc S. Nash, Esq.
Associate Counsel
Bureau of Professional Medical Conduct
Corning Tower Building – Room 2512
Empire State Plaza
Albany, New York 12237

APPENDIX I

NEW YORK STATE
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

DEPARTMENT OF HEALTH

IN THE MATTER
OF
SANJEEV SAXENA, M.D.

STATEMENT
OF
CHARGES

SANJEEV SAXENA, M.D., the Respondent, was authorized to practice medicine in New York State on or about October 6, 2010 by the issuance of license number 258941 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. On or about November 17, 2017, the Alabama State Board of Medical Examiners (hereinafter "Alabama Board") and Respondent entered into a Joint Stipulation and Consent Order in which Respondent's license to practice medicine was placed on indefinite probation, and stated Respondent can apply to lift the probationary status after one year. In addition, Respondent was directed to take and successfully complete a course in medical documentation and Respondent was ordered to pay administrative costs of \$24,000. This discipline was directed pursuant to Respondent's admission that he failed to maintain a patient medical record which met the minimum standards under Alabama codes and rules.

B. The Conduct resulting in the Alabama Board's disciplinary action against Respondent would constitute misconduct under the laws of New York State pursuant to the following Sections of New York State Law:

1. New York Education Law § 6530(32) (Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient).

SPECIFICATION OF CHARGES
HAVING HAD DISCIPLINARY ACTION TAKEN

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(9)(d) by having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York state (namely N.Y. Educ. Law § 6530(32)) as alleged in the facts of the following:

1. The facts in Paragraphs A and B and B1.

DATE: September 27, 2018
Albany, New York

[REDACTED]
MICHAEL A. HISER
Deputy Counsel
Bureau of Professional Medical Conduct

APPENDIX II

TERMS OF PROBATION

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Menands, New York 12204-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
4. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive Law section 32].
5. The period of probation shall be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in or intends to leave the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.
6. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations or OPMC offices.
7. Respondent shall maintain legible and complete medical records which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
8. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.